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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------------|
| 10/532,798 | 04/25/2005 | Takehiko Kishikawa | 2005_0600A | 5653 |
| 513 7590 12/12/2007 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021 | | | EXAMINER COURSON, TANIA C | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,798

Applicant(s)

KISHIKAWA, TAKEHIKO

Examiner

Tania C. Courson

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schnell (US 527,815) in view of Thomas (US 2,457,613).

Schnell discloses a level instrument including of the following:

- a) a main body frame (Fig. 1) that is to be arranged along a vertical face to be measured (Fig. 1), the main body frame having a first end and a second end (Fig. 1); and a reference arm (30') connected to the first end of the main body frame so as to be perpendicular relative to the main body frame (Fig. 1); and a telescoping arm (20 & 30) connected to the second end of the main body frame so as to be perpendicular relative to the main body frame (Fig. 1), wherein the reference arm and the telescoping arm extend in the same direction from the main body frame and are adapted to contact the face to be measured (Fig. 1), and wherein the said telescoping arm has a slide scale (23) that is movable by telescoping the telescoping arm (Fig. 1) for determining a level of the telescoping arm (Fig. 1), the gauge being mounted at a position corresponding to a reference line of graduations of the slide scale (Fig. 1) wherein during an inclination

measurement, the telescoping arm is adjusted so that the telescoping arm is level as indicated by the gauge (Fig. 1);

- b) wherein the gauge determines a level of the telescoping arm in a telescoping direction (Fig. 1);
- c) wherein said gauge determines a level of the telescoping arm in a direction perpendicular to a telescoping direction (Fig.1);
- d) wherein said gauge can be observed from both upper and under sides of the telescoping arm (Fig.1);
- e) further comprising a driving mechanism (26) that drives a telescoping operation of the telescoping arm (Fig.1);
- f) wherein the said driving mechanism converts a rotary movement of a rotating member into a telescoping movement of the telescoping arm (Fig.1);
- g) wherein the said reference arm is provided with a protrusion (30') on a portion to be in contact with the face to be measured on an outer side of the main body frame (Fig.1);
- h) wherein the said main body frame is provided with a bubble gauge for determining a level of the main body frame (Fig.1);
- i) wherein when the telescoping arm becomes level as indicated by the gauge, the inclination of the face to be measured is indicated by the slide scale (12) on the telescoping arm (Fig.1).

Schnell does not disclose a bubble gauge.

Thomas teaches a combination tool that includes a bubble gauge (47, 49 and 50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the level instrument of Schnell, so as to include a bubble gauge, as taught by Thomas, so as to provide additional inclination measurement accuracy during measurement of a surface.

Response to Arguments

3. Applicant's arguments filed on September 25, 2007 have been fully considered but they are not persuasive.
4. Applicant's comment regarding the lack of suggestion in Schnell for a bubble gauge is not persuasive because Schnell is only used to show that it is already known in the art to have a telescoping gauge, it is the Thomas reference that is used to show that it is already known in the art to have a bubble gauge. The existing bubble gauge on the top surface of the Schnell reference is not utilized as the "bubble gauge", so it is wrong for the applicant to state that this is used as part of the examiner's argument.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday, Wednesday, Thursday from 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard, can be reached on (571) 272-1984.

The fax number for this Organization where this application or proceeding is assigned is 571/273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TCC
December 10, 2007


G. BRADLEY BENNETT
PRIMARY EXAMINER